

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

PAT TISDALE
1050 Clinton Street
Ironton, Ohio 45638

Plaintiff,

VS.

**DIVERSICARE LEASING LP
D/B/A AND A/K/A BEST CARE
NURSING AND REHABILITATION
CENTER
2159 Dogwood Ridge Road
Wheelersburg, Ohio 45694**

Serve:

**Diversicare Leasing LP
c/o Corporation Service Company
3366 Riverside Drive, Suite 103
Columbus, Ohio 43221**

Defendant.

Case No.

**COMPLAINT WITH JURY
DEMAND**

PARTIES, JURISDICTION AND VENUE

1. Plaintiff Pat Tisdale (hereinafter “Plaintiff”) is a resident of Ohio and a citizen of the state of Ohio.

2. Defendant Diversicare Leasing LP d/b/a and a/k/a Best Care Nursing and Rehabilitation Center (hereinafter “Defendant”) is a Tennessee for profit limited partnership that holds itself out to the public as a provider of medical care, including but not limited to, rehabilitation and skilled nursing care. Its place of incorporation and principal place of business are in Tennessee.

3. This Court has subject matter jurisdiction over this case because there is diversity of citizenship between Plaintiff and Defendant and the amount in controversy exceeds \$75,000.

4. This Court has personal jurisdiction over Defendant.

5. This Court is a proper venue for the claims in this Complaint.

BACKGROUND

6. In April 2022, Plaintiff was a patient at Best Care Nursing and Rehabilitation Center (“Best Care”) for nursing home services.

7. During her stay and treatment at Best Care, on or about April 23, 2022, Defendant failed to properly care for Plaintiff. As a result of this failure of care, Plaintiff fell and fractured her back. The failure of care on the part of the Defendant caused Plaintiff’s injuries.

8. After Plaintiff fell and broke her back, Defendant failed to provide her appropriate post-fall care and failed to promptly send her to the hospital, causing Plaintiff further injury.

CLAIM ONE – NEGLIGENCE

9. Defendant owed a duty of care to Plaintiff to meet the applicable standard of care for a reasonable nursing facility in the same or similar circumstances.

10. Defendant breached the standard of care by:

- a. failing to ensure that the premises were safe for Plaintiff;
- b. failing to prevent Plaintiff’s fall;
- c. failing to prevent injury to Plaintiff;
- d. failing to provide appropriate nursing care to Plaintiff after she fell; and
- e. otherwise acting negligently during the treatment of Plaintiff.

13. As a direct and proximate result of Defendant’s negligence and its agents’ negligence, Plaintiff suffered personal injury and her injuries are permanent.

CLAIM TWO – PUNITIVE DAMAGES AGAINST DEFENDANT

14. Plaintiff restates and realleges Paragraphs 1 through 13 of her Complaint as if fully set forth herein.

15. Defendant acted with malice and in conscious disregard for Plaintiff.

16. Plaintiff is entitled to punitive damages against Defendant.

17. Plaintiff is entitled to recover her attorney's fees and expenses against Defendant.

**CLAIM THREE – NURSING HOME RESIDENT RIGHTS VIOLATION
PURSUANT TO R.C. § 3721.13.**

18. Plaintiff restates and realleges Paragraphs 1 through 17 of her Complaint as if fully set forth herein.

19. Defendant, directly or through its employees and/or agents, violated Plaintiff's rights as a resident of the Defendant's facility, as enumerated in R.C. § 3721.13, including, but not limited to, the right to a safe environment and to have adequate and appropriate medical treatment and nursing care.

20. These violations constitute negligence per se and give rise to a statutory cause of action.

21. As a direct and proximate result of Defendant's violations of R.C. § 3721.13, Plaintiff endured personal injury, conscious pain and suffering, permanent injury, and was otherwise harmed.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendant in excess of \$75,000 as follows:

- (a) that Plaintiff be awarded compensatory damages;
- (b) that Plaintiff be awarded punitive damages against Defendant;

- (c) that Plaintiff be awarded attorney's fees; and
- (d) that Plaintiff be awarded all other relief to which she may be entitled.

JURY DEMAND

Plaintiff demands a jury trial on all claims and issues that can be tried by a jury.

Respectfully submitted,

/s/ J. Eric Kiser

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